IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

CWP No. 146 of 2006

Date of decision: 12.04.2007

Kamal Kumar … Petitioner

Versus

HRTC & others …. Respondents

Coram:

The Hon'ble Mr.Justice Deepak Gupta, J.

The Hon'ble Mr Justice Surinder Singh,J.

Whether approved for reporting ?[1]

For the Petitioner **Mr Ajay Kumar Dhiman, Advocate.**

For respondents 1 & 2 **Mr H S Rawat,Advocate.**

For respondent No.3 **Mr Pritam Singh, Advocate.**

Depeak Gupta,J. (Oral)

By means of this writ petition, the petitioner has challenged the action of the H P Bus Stand Management and Development Authority in awarding the contract, for running the canteen (Stall No.6) in favour of respondent No.3, for a period of 33 months.

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment ?***

The undisputed facts are that respondent NO.1 issued a tender-cum-auction notice, inviting tenders for Stall(s) No.6 & 7 and Workshop Canteen at Bilaspur. In the tender-cum-auction notice, the date and time for opening the tenders was mentioned as 28.01.2006 at 12.45 PM. The petitioner and respondents No.3 to 5 had submitted their tenders. The petitioner had submitted a tender offering Rs.7,901/- per month. Admittedly the offer made by the petitioner, as per the tender, was highest.

According to the petitioner, his offer was wrongly rejected without assigning any reason and thereafter open auction was conducted in which only respondent No.3 participated and the stall in question was auctioned in favour of respondent No.3 at Rs.8900/- per month.

According to the respondents, the offer given by the petitioner was found to be below the reserve price and, therefore, it was rejected. In the reply it is alleged that all the four tenderers, including the petitioner, had taken part in the auction and finally the respondent No.3 Vipin Kumar had given highest bid of Rs.8,900/-.

Without going into the disputed question of fact as to whether the petitioner had taken part

in the auction or not, we are of the considered view that the petitioner was aware that in case the tender is rejected, the stall in question would be auctioned in an open auction. This is apparent from the notice (Annexure A-1), attached with the writ petition itself. It is not the case of the petitioner that the Stall in question has been auctioned at a rate less than that offered by him. The stall has been auctioned at a monthly license fee of Rs.8,900/-, which is Rs.999/- more than what was offered by the petitioner. The petitioner has not even made an allegation in the writ petition that he was not aware about the auction or that he had no notice about the auction. His only grouse is that his tender should have been accepted.

Keeping in view the terms of tender-cum-auction notice, it is clear that the H.P.Bus Stand Management and Development Authority, had devised a system, whereby tenders were invited and after opening of the tenders, open auction was to be conducted at the prescribed time. The petitioner was well aware of this condition and he cannot be permitted to raise any objection, at this stage, about the procedure followed by the respondent-

authority. The writ petition is without any merit and is accordingly dismissed. No order as to costs.

CMP No.186 of 2006

In view of the dismissal of the writ petition, this application does not survive and stands disposed of accordingly.

(Deepak Gupta),J.

April 12, 2007 (Surinder Singh),J.
(D)